

1999 No. 124

EDUCATION, ENGLAND AND WALES

The Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999

<i>Made</i> - - - -	<i>2nd February 1999</i>
<i>Laid before Parliament</i>	<i>5th February 1999</i>
<i>Coming into force</i>	<i>1st April 1999</i>

In exercise of the powers conferred upon the Secretary of State by section 89(3) and (8)(g) and 138(7) of the School Standards and Framework Act 1998(a), and after consulting the Council on Tribunals with respect to regulation 9, the Secretary of State for Education and Employment, as respects England, and the Secretary of State for Wales, as respects Wales, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999 and shall come into force on 1st April 1999.

Interpretation

2.—(1) In these Regulations:

“the Act” means the School Standards and Framework Act 1998;

“education authority” means a local education authority;

“local school”, in relation to an education authority, means a school (as defined below) maintained by that authority including any grant maintained school pursuant to regulation 2 of the School Standards and Framework Act 1998 (Modification) Regulations S.I. 1998/2670.

“main entrance” means the principal entrance to the school premises in question, or (if the school has more than one site) to the principal entrance to the main administrative building of the school;

“school” means—

- (a) in relation to the period ending immediately before 1st September 1999, a county, voluntary, or grant-maintained school within the meaning of the Education Act 1996; and
- (b) in relation to the period beginning on 1st September 1999, a community, foundation or voluntary school.

“section”, unless the context otherwise requires, means a section of the Act.

(a) 1998 c. 31; for the meaning of “regulations” see section 142(1).

(2) For the purposes of these Regulations, an education authority is “neighbouring”, in relation to another education authority, if the areas of the two authorities adjoin to any extent.

Application

3.—(1) These Regulations apply for the purpose of determining the relevant areas for consultation under section 89(2)(b) by admission authorities about their proposed admission arrangements for the school year commencing in 2001 and for any later school year.

(2) For the purpose of paragraph (1), admission arrangements for a school shall be treated as being for the particular school year in which pupils are to be admitted to the school in consequence of the arrangements.

Determination by local education authorities

4. Relevant areas shall be determined by education authorities in accordance with these Regulations.

Preparation of proposals

5.—(1) Each education authority shall draw up proposals for determining the relevant area or relevant areas for consultation by the admission authorities for the local schools.

(2) The proposals shall be such that—

- (a) a relevant area will be determined in relation to consultation by the admission authority for each local school (referred to in the rest of these regulations as a relevant area “for” such a school); and
- (b) every part of the authority’s area will fall within at least one relevant area for a local primary school or schools and at least one relevant area for a local secondary school or schools (which may be the same relevant area as that for the primary school or schools).

(3) The proposals may contain proposals of any of the following kinds—

- (a) for different relevant areas to be determined for different local schools, or for different groups or categories of local schools;
- (b) for the same relevant area to be determined for all local schools;
- (c) for a relevant area to be determined for one case to overlap, wholly or partly, the relevant area to be determined for another case;
- (d) for the relevant area to be determined for any local school or schools to comprise part (or all) of the area of the education authority and part (or all) of the area of one or more other education authorities.

Consultation on proposals

6.—(1) The education authority shall consult the following on their proposals drawn up under regulation 5—

- (a) every neighbouring education authority;
- (b) every other admission authority for a local school;
- (c) insofar as not falling within paragraph (a) or (b), every other admission authority for a school situated (wholly or partly) within any relevant area which the education authority propose to determine; and
- (d) insofar as not falling within paragraphs (a) to (c), every other admission authority for a school outside the education authority’s area which is situated—
 - (i) in the case of a primary school, not more than 1.6 kilometres, or
 - (ii) in the case of a secondary school, not more than 4.8 kilometres,from the border of the education authority’s area.

(2) For the purpose of paragraph (1), a school is to be taken to be situated at the point where its main entrance is situated.

(3) The education authority may also consult any other person or body they think fit.

(4) For the purpose of consultation under this regulation, the education authority shall communicate their proposals by, at least, sending each admission authority which they are required to consult a written copy of the proposals and inviting their written comments within a specified period (which shall not be less than 30 days).

Determination

7.—(1) Following consultation, the education authority shall determine the relevant area or relevant areas for consultation by the admission authorities for the local schools.

(2) The provisions of regulation 5(2) and (3) shall apply in relation to such a determination in the same way as they apply in relation to a proposed determination.

(3) In the case of the relevant area or relevant areas for consultation about admission arrangements for the school year commencing in 2001, the education authority shall take all steps necessary to ensure that their determination is made no later than the end of July 1999.

Notification of determination

8. The education authority shall notify details of their determination in writing to—

- (a) every admission authority they were required to consult by virtue of regulation 6(1); and
- (b) so far as not falling within (a), every admission authority for a school situated (wholly or partly) in a relevant area so determined.

Redetermination by adjudicator or Secretary of State of cross-border relevant areas

9.—(1) Where—

- (a) an education authority determine any relevant area which comprises part (or all) of the area of that education authority and part (or all) of the area of another education authority (or of the areas of other education authorities) (“a cross-border relevant area”), and
- (b) that other education authority (or any of those other such authorities) object to that determination,

the objecting authority may refer the determination to the adjudicator to be redetermined.

(2) Such a reference to the adjudicator shall—

- (a) be in writing addressed to the adjudicator;
- (b) state the reasons for objection; and
- (c) be sent so as to be received by the adjudicator no later than 28 days after the receipt by the objecting authority of the notification required by regulation 8.

(3) On receiving the reference, the adjudicator—

- (a) shall invite written representations from—
 - (i) the education authority that made the determination; and
 - (ii) every other education authority whose area falls (wholly or partly) within the cross-border relevant area; and
- (b) may invite such other representations, and seek such other information, as he thinks appropriate.

(4) The adjudicator shall redetermine the relevant area either by confirming the education authority’s determination or by determining that some other area specified in his decision shall be the relevant area in question.

(5) The adjudicator shall notify the objecting authority and each of the education authorities falling within paragraph (3)(a) in writing of his decision and the reasons for it.

(6) Such a redetermination shall have effect to determine the relevant area concerned in the same way as if it were a determination by the education authority.

(7) References in this regulation to the adjudicator shall be read as references to the Secretary of State in a case where any part of either—

(a) the cross-border relevant area which has been determined; or

(b) the relevant area which the objecting authority wishes to be determined;

lies or would lie in Wales.

Effect of determination or redetermination for future years

10. The determination by an education authority, or (where there has been a redetermination by the adjudicator or the Secretary of State) the redetermination, of any relevant area for a local school or schools in relation to a particular school year shall have effect in relation to later school years until a subsequent determination or, as the case may be, redetermination of the relevant area.

Review of relevant areas

11.—(1) Each education authority shall review periodically their determination of the relevant area or relevant areas for their local schools in accordance with this regulation.

(2) The authority shall review their first, or as the case may be most recent, determination within the period of two years after the date on which that determination was made.

(3) Where—

(a) a relevant area was redetermined by the adjudicator or the Secretary of State under regulation 9, and

(b) the redetermined relevant area differed from that which had been determined by the education authority,

the education authority may not propose any determination which would change that relevant area unless the proposed determination would be made more than a year after the end of the school year in which they made the determination referred to in subparagraph (b).

(4) Having reviewed their determination, the authority shall prepare and consult on proposals for the relevant area or relevant areas for consultation by the admission authorities for the local schools, in accordance with regulations 5 and 6.

(5) Paragraph (4) does not require the new proposals to propose any change to the relevant area or relevant areas previously determined.

(6) Following consultation, the education authority shall decide either—

(a) that a fresh determination shall be made, in which case regulations 7(1) and (2), 8 and 9 shall apply; or

(b) that no fresh determination shall be made, in which case they shall notify the bodies mentioned in regulation 8 in writing of their decision.

(7) The education authority shall take all steps necessary to ensure that, should it conclude that a fresh determination is to be made, that determination is made no later than two years after the latest time by which their previous determination was required to have been made.

(8) A fresh determination by an education authority under this regulation shall specify, by reference to admission arrangements for a particular school year, the earliest admission arrangements for consultation about which the freshly determined relevant area or relevant areas has or have effect.

(9) Regulation 9 applies to enable a decision under paragraph (6) to be referred to the adjudicator or the Secretary of State where the decision determines, or (where no fresh determination is made) leaves in effect, a cross-border relevant area.

30th January 1999

Estelle Morris
Minister of State,
Department for Education and Employment

2nd February 1999

Peter Hain
Parliamentary Under Secretary of State,
Welsh Office

EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 89(2) of the School Standards and Framework Act 1998 requires the admission authority for every maintained school to consult other admission authorities before determining the school's admission arrangements for a school year. Under section 89(2)(b) this includes a duty to consult all admission authorities for schools in "the relevant area", which is defined by section 89(3) as the local authority's area or such other area as is determined by or in accordance with regulations. These Regulations make provision for the relevant areas to be determined by local education authorities and, in certain cases, redetermined by the adjudicator or (in Wales) the Secretary of State. They come into force on 1st April 1999.

Regulation 2 defines terms used in the Regulations. Regulation 3 provides that the Regulations will apply in relation to consultation about proposed admission arrangements for the school year 2001/2002 and for later school years. (The relevant areas for admission arrangements for the school year 2000/2001 are determined by S.I. 1998/3165.)

Regulation 4 provides that local education authorities are to determine the relevant areas in accordance with the Regulations. Regulation 5 requires such authorities to draw up proposals for determining the relevant area for consultation about admission arrangements for each local school (meaning a school maintained by the authority). These proposals shall be such that every part of the education authority's area falls within a relevant area proposed to be determined for at least one primary school and for at least one secondary school. The proposals may provide that different schools, or different groups or categories of schools, will have different relevant areas, or that they will all have the same relevant area. Relevant areas may overlap and may cover part (or all) of the area of another education authority.

Regulation 6 places the education authority under a duty to consult specified authorities on its proposals, which must be communicated in writing and must invite written comments on the proposals within a stated period of not less than 30 days. An education authority is required to consult every neighbouring education authority, every admission authority for a local school, and every admission authority for a school within any proposed relevant area. The education authority must additionally consult the admission authority of any primary school within 1.6 kilometres (just under one mile), or of any secondary school within 4.8 kilometres (just under three miles) from the border of the education authority's area. The education authority may also consult any other person or body they think fit.

Regulation 7 provides that the education authorities are to determine the relevant area or relevant areas following the consultation. It requires education authorities to take all necessary steps to ensure that they determine the relevant areas for consultation about admission arrangements for the school year 2001/2002 by the end of July 1999. Regulation 8 requires an education authority to notify specified admission authorities in writing of the details of its determination.

Regulation 9 provides for another education authority to object to the adjudicator against a relevant area that has been determined and crosses their border. An objection is to be referred in writing to the adjudicator, who will then invite written representations from specified authorities and other persons he thinks fit. The adjudicator will then redetermine the relevant area, either by confirming the authority's determination or by specifying some other area. The adjudicator must notify specified authorities in writing of his decision and the reasons for it. Where an objection relates to a relevant area part or all of which lies or would lie in Wales, the objection must be made to and redetermined by the Secretary of State.

Regulation 10 enables determinations and redeterminations to continue in effect for future years. Regulation 11 requires an education authority to review its determination of relevant areas and to follow the consultation and determination provisions of Regulations 5 to 8, and the objection procedure under Regulation 9 will also apply. The review must be within the period of 2 years after the date on which the last determination was made. Where it is decided to make a fresh determination, that determination must not be made later than two years after the latest time by which the education authority's previous determination must have been made.

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